



Office of Health Care Access Certificate of Need Application

Final Decision

Applicant: Lawrence and Memorial Systems, Inc. and Ocean Radiology Associates, P.C.

Docket Number: 05-30661-CON

Project Title: Establishment of a Freestanding Imaging Center in Waterford and Acquisition of a 16 Slice CT Scanner

Statutory Reference: Sections 19a-638 and 19a-639, Connecticut General Statutes

Filing Date: June 26, 2006

Hearing Date: August 30, 2006

Presiding Officer: Cristine A. Vogel
Commissioner

Decision Date: September 22, 2006

Staff Assigned: Steven W. Lazarus

Default Date: September 24, 2006

Project Description: Lawrence and Memorial Systems Inc. ("System") and Ocean Radiology Associates, P.C. ("ORA") (collectively known as "Applicants") propose to establish a freestanding imaging center in Waterford, Connecticut to be known as Southeastern Connecticut Imaging Center, LLC ("SCIC") and acquire a 16 slice CT scanner, at total capital cost of \$1,958,701.

Nature of Proceedings: On June 26, 2006, the Office of Health Care Access (“OHCA”) received the Applicants proposal to establish a freestanding imaging center in Waterford, Connecticut and acquisition of a 16 slice CT scanner, at a total capital expenditure of \$1,958,701. Lawrence and Memorial Systems, Inc. is considered a health care facility or institution as defined pursuant to Section 19a-630 of the Connecticut General Statutes (“C.G.S.”) and Public Act 05-75.

On January 11, 2006, a notice to the public regarding OHCA’s receipt of the Applicants’ Letter of Intent to file its CON application was published in *The Day* pursuant to Sections 19a-638 and 19a-639, C.G.S. On July 13, 2006, OHCA received a letter from AFT Connecticut requesting that a hearing be held on the Applicants’ CON application.

Pursuant to Sections 19a-638 and 19a-639, C.G.S., a public hearing regarding the CON application was held on August 30, 2006. On July 26, 2006, the Applicants were notified of the date, time and place of the hearing. On July 28, 2006, a notice to the public was published in *The Day*. Commissioner Cristine A. Vogel served as Presiding Officer. The hearing was conducted as a contested case in accordance with the provisions of the Uniform Administrative Procedure Act (Chapter 54 of the Connecticut General Statutes) and Sections 19a-638 and 19a-639, C.G.S.

The Presiding Officer heard testimony from the Applicants in rendering this decision and considered the entire record of the proceeding. OHCA’s authority to review and approve, modify or deny the CON application is established by Sections 19a-638 and 19a-639, C.G.S. The provisions of these sections, as well as the principles and guidelines set forth in Section 19a-637, C.G.S., were fully considered by OHCA in its review.

Findings of Fact

Clear Public Need

Impact of the Proposal on the Applicants’ Current Utilization Statistics Proposal’s Contribution to the Quality of Health Care Delivery in the Region Proposal’s Contribution to the Accessibility of Health Care Delivery in the Region

1. Lawrence and Memorial Systems, Inc. (“System”) is a for-profit subsidiary of Lawrence and Memorial Corporation, which is also the parent corporation of Lawrence and Memorial Hospital. (*Responses to the CON Completeness Letter, June 26, 2006*)
2. Lawrence and Memorial Hospital (“Hospital” or “L&M”) is an acute care hospital located at 365 Montauk Avenue, New London, Connecticut. (*Initial CON Application, June 26, 2006, page 6*)
3. Ocean Radiology Associates, P.C. (“ORA”) is a radiology practice which is the sole provider of radiology services to the Hospital and its various satellite locations. (*Initial CON Application, April 19, 2006, page 1 and Response to Completeness Letter, June 26, 2006*)

4. The Applicants propose a joint venture to establish a freestanding imaging center to be known as Southeastern Connecticut Imaging Center, LLC (“SCIC”) to be located in approximately 9,600 square feet of leased space in the Crossroads Professional Building, 196 Waterford Parkway South, Waterford, Connecticut and the acquisition of a 16 slice CT scanner. *(Initial CON Application, June 26, 2006, page 6)*
5. SCIC proposes to offer the following outpatient imaging services:
 - CT Scanning;
 - Diagnostic Radiography;
 - Ultrasound;
 - Mammography; and
 - Bone Densitometry.*(Initial CON Application, April 19, 2006, page 6)*
6. The Hospital’s satellite facilities’ locations and hours of operations are as follows:

Table 1: Hospital’s Satellite Health Center’s Locations and Hours of Operation

Name of the satellite facility	Address	Hours of Operation
Pequot Health Center	52 Hazelnut Hill Road, Groton	M-F: 7am-9pm, Sat&Sun: 7am-5pm
Flanders Health Center	339 Flanders Road, East Lyme	M-F: 7am-9pm, Sat: 7am-4pm
Old Saybrook Health Center	633 Middlesex Turnpike, Old Saybrook	M-F: 7am-5:30pm

(Initial CON Application, June 26, 2006, pages 14&16)

7. Currently the Hospital and its satellite facilities offer the following modalities:

Table 2: Modalities offered at various locations

Modality	Hospital	Pequot	Flanders	Old Saybrook	Proposed SCIC
CT Scan	*	*	N/A	N/A	*
Ultrasound	*	*	*	*	*
Mammography	*	*	*	*	*
General Diagnostic	*	*	*	*	*
Bone Dens.	N/A	*	N/A	N/A	*
MRI	*	*	N/A	N/A	N/A
Nuclear Medicine	*	N/A	N/A	N/A	N/A
PET (Mobile)	*	**	N/A	N/A	N/A

*: Denotes modality offered at this location

** OHCA can not verify this.

N/A: Denotes modality Not Available at this location

(Initial CON Application, June 26, 2006, page 14)

8. The Applicants state that the total service area for SCIC includes the following towns:

Table 3: Primary and Secondary Service Areas

East Lyme	Groton
Ledyard	Lyme
Montville	New London
North Stonington	Old Lyme
Stonington	Waterford
Norwich	Salem
Griswold	Lisbon
Preston	Old Saybrook
Colchester	Bozrah
Voluntown	Franklin

(Initial CON Application, June 26, 2006, page 12)

9. The Applicants' proposal includes the leasing of a GE Healthcare LightSpeed 16 Slice CT Scanner with SmartPrep, D3D and Xtream Technology. *(Initial CON Application, April 19, 2006, page 211, Vendor Quote)*
10. L&M currently operates two (2) 16 slice CT scanners, one located on the Hospital campus and the other located at the Pequot Health Center. *(Responses to the CON Completeness Letter, June 26, 2006)*
11. The Applicants based the need for the proposed SCIC on the following:
- Imaging services being at capacity at the Hospital;
 - Space limitations at the Hospital and the satellite health centers; and
 - Improving relations between the Hospital, its community based physicians and patients in its service area.
- (Initial CON Application, April 19, 2006, pages 6-22 and September 6, 2005, Letter of Intent and May 16, 2006, Applicant's Late File)*
12. Historical volumes for the proposed imaging services at the Hospital and its satellite health centers are as follows:

Table 4: Historical Utilization for proposed imaging services, CYs 2003-2006

Modality	CY 2003	CY 2004	CY 2005	*CY 2006
Plain Film	61,653	60,489	62,660	62,714
Mammography	18,475	19,164	20,014	19,437
Ultrasound	27,149	28,611	31,029	32,601
Dexa	2,906	3,032	2,981	2,976
CT Scans	19,804	20,761	22,258	23,997
Total	129,987	132,057	138,942	141,725

Note: * Denotes Annualized Numbers

(Responses to CON Completeness Letter, June 26, 2006, page 12)

13. The Applicants provided the following regarding current CT scan volume compared to equipment capacity:

Table 5: CT scan volume Compared to Equipment Capacity

	Pequot	Hospital Campus
Number of CT scanners	1	1
Average Hours per day is operational	13.7	24
Days per week	7	7
Weeks per year	52	52
Targeted utilization as % of capacity	80%	80%
Annual Total Capacity for scans in hours	3,989	6,989
Average CT scan time in hours	0.5	0.5
Annual Capacity CT scans per equipment	7,979	13,978
2005 CT scans	7,350	15,435
% Total CT Capacity	92%	110%

(Initial CON Application, April 19, 2006, page 18)

14. According to the Applicants, the percentage of CT scans by Inpatient Emergency Department (“ED”) and Outpatient at the Hospital were as follows:

Table 6: Existing Hospital Inpatient ED and Outpatient CT Scans

	FY '04	FY '05	FY '06 (1/31/06)
Inpatient ED	64.1%	66.2%	73.0%
Outpatient	35.9%	33.8%	27.0%
Total	100%	100%	100%

(Completed CON Application, June 26, 2006, page 17)

15. The Applicants testified that outpatient imaging service is struggling to accommodate the demand for CT, ultrasound and mammography at the Hospital.
(August 25, 2006, Prefile Testimony of Sheldon M. Robbins, M.D., pages 4 & 5)
16. The Applicants stated that expansion of imaging services at existing locations, including the Hospital’s main campus, Pequot Health Center and Flanders Health Center is not feasible due to facility space constraints, and already extended hours of operations. *(Initial CON Application, April 19, 2006, page 6)*
17. The Applicants testified to the following regarding existing space constraints:
- Due to space constraints at the Hospital’s main campus any expansion of services or recruitment to meet the demand of the Hospital’s existing and future outpatients for imaging services must be off the Hospital’s main campus; and
 - Similarly, the Pequot Health Center and Flanders Health Center are both space constrained and landlocked and do not have sufficient space for any meaningful expansion of imaging modalities or recruitment.
- (August 25, 2006, Prefile Testimony of Bruce D. Cummings, CEO of L&M Hospital)*

18. The Applicants testified that the location of the proposed SCIC will help alleviate capacity issues at the Hospital and help the System retain its existing patients in its service area. (*Applicants' Testimony at the Public Hearing, August 30, 2006*)
19. The Applicants stated that the proposed SCIC will provide for the following:
- Increased outpatient imaging access for the Hospital's patients;
 - Improved access for Hospital affiliated physicians located in its service area; and
 - Alleviated imaging capacity issues at the Hospital.
(*August 25, 2006, Prefile Testimony of Sheldon M. Robbins, M.D. and Initial CON Application, April 19, 2006, pages 6-17*)
20. The Applicants testified that the volume projections on which the projected financials are based on are conservative in nature, and the outpatient volume that will be drawn away from the Hospital will be made up through other volumes such as MRI, PET, etc. (*Public Hearing Testimony of Timothy D. Bates, August 30, 2006*)
21. Timothy D. Bates, Chairman of the Board of Directors at Lawrence & Memorial Hospital stated that:
- Through the SCIC 50% of the profits will return to the Hospital;
 - The relationship of the Hospital to the medical staff and the ability to recruit new staff will be enhanced with the equity position of the physicians;
 - The equipment proposed to be included in the SCIC was chosen to minimize the impact on the Hospital;
 - The Hospital is satisfied that in three to five years the Hospital can absorb the initial losses in the budget;
 - The community, the Hospital, and the physicians will benefit from a functioning joint venture.
(*Public Hearing Testimony of Timothy D. Bates, August 30, 2006*)
22. The Applicants are projecting the following procedure volumes for the first three years of operation at the proposed SCIC:

Table 7: Projected Procedures for the proposed SCIC, CYs 2007-2009

Modality	CY 2007	CY 2008	CY 2009
CT	2,877	4,303	5,658
Ultrasound	3,780	4,367	4,933
Mammography	2,532	3,037	3,537
General Diagnostic	2,014	2,014	2,014
Bone Dens.	380	399	419
Total	11,583	14,120	16,561

Note: OHCA can not verify these projections.

The Applicants based the projected volumes on CERC data, a 2005 utilization rate per 1,000 population by modality based on a firm's national experience with imaging projects, and an annual percentage change in the use rate also based on the firm's experience.
(*Initial CON Application, April 19, 2006, page 26*)

23. The Applicants made the following assumptions in the projected imaging volumes:
- For CT, Ultrasound, and Mammography:
- The annual increase in the Applicants' projected volume by modality could be transferred to SCIC.
 - The establishment of SCIC would reduce the existing procedure backlogs and restricted appointment availability.
 - The proposal would result in the recapture of some volume from affiliated physicians who were referring patients to other providers.
 - 50% of the outpatient procedures currently performed after 5 PM for these modalities would be transferred to SCIC.
 - Ultrasound volume incorporated the expected increase in demand for inpatient procedures.
- For General Diagnostic Radiography:
- No growth in the utilization: 100% referral from physicians with practice locations in Crossroads Professional Building.
- For Bone Density:
- Procedures would equal 15% of SCIC's FY 2007 mammography procedures based on historical L&M data with an annual 5% growth.
- (Initial CON Application, April 19, 2006, pages 27-28)*

Financial Feasibility of the Proposal and its Impact on the Applicants' Rates and Financial Condition
Impact of the Proposal on the Interests of Consumers of Health Care Services and Payers for Such Services
Consideration of Other Section 19a-637, C.G.S. Principles and Guidelines

24. The proposal has a proposed capital cost of \$1,958,701, which consists of:

Table 8: Total Capital Cost for the Proposal

Project Component	Cost
Medical Equipment (Purchase)	\$160,000
Non-Medical Equipment (Purchase)	\$257,196
Tenant Improvements (Renovations)	\$208,354
Total Capital Expenditure	\$626,513
Medical Equipment (Lease)	\$1,332,188
Total Capital Cost	\$1,958,701

(Initial CON Application, April 19, 2006, page 42)

25. The Applicants plan to fund the proposal by contributing \$250,000 each through equity, specifically through operating funds, and the remaining will be funded through a conventional loan. Major medical equipment will be lease financed.
- (Initial CON Application, April 19, 2006, pages 149-50.)*
26. The Applicants are projecting incremental losses from operations of SCIC of \$(267,110) and \$(166,417) for FYs 2007 and 2008. The losses are due to initial

start-up costs. (*Initial CON Application, April 19, 2006, page 317 and Applicants Testimony, August 30, 2006*)

27. The Applicants project a gain from operations of SCIC of \$101,856 for FY 2009. (*Initial CON Application, April 19, 2006, page 317 and Applicants Testimony, August 30, 2006*)
28. The System projects incremental losses from operations with SCIC of (\$133,555) and (\$83,209) for FYs 2007 and 2008, respectively. The incremental losses for the first two years of operation as a result of this proposal are due to initial start-up costs. (*Applicants' Late File, September 6, 2006*)
29. According to the Applicants, the System is currently experiencing losses. The System is a Management Services Organization for Sound Medical Associates and an Investment in a Dialysis Corporation. The System is projecting a gain from operations with SCIC of \$50,928 for FY 2009. (*Applicants' Late File, September 6, 2006*)
30. ORA projects gains from operations with SCIC of \$59,116, \$78,305 and \$96,666 for the first three years of operations. ORA does not experience any losses due to SCIC, as professional fees are paid to ORA for scans performed at SCIC. (*Initial CON Application, April 19, 2006, pages 58 and 319*)
31. The Applicants project the following payer mix at SCIC:

Table 9: Proposed Imaging Center Payer Mix

	Year 1	Year 2	Year 3
Medicare	26%	25%	25%
Medicaid	2%	3%	3%
CHAMPUS and TriCare	3%	2%	2%
Total Government	31%	30%	30%
Commercial Insurers	66%	66%	66%
Uninsured	1%	1%	1%
Worker's Compensation	2%	2%	2%
Total Non-Government	69%	70%	70%
Payers			
Total Payer Mix	100.0%	100.0%	100.0%

(*Initial CON Application, April 19, 2006, page 53*)

32. The Applicants' rates are sufficient to cover the proposed capital and operating costs. (*Applicants Late File, September 6, 2006 and Initial CON Application, April 19, 2006, pages 319*)
33. There is no State Health Plan in existence at this time. (*Initial CON Application, April 19, 2006, page 7*)
34. The Applicants have adduced evidence that this proposal is consistent with their long-range plan. (*Initial CON Application, April 19, 2006, page 7*)

35. There are no distinguishing or unique characteristics of the Applicants' patient/physician mix related to the proposal. *(Initial CON Application, April 19, 2006, page 37)*
36. The Applicants' have undertaken energy conservation, group purchasing and application of technology programs in an effort to improve productivity and contain costs. *(Initial CON Application, April 19, 2006, page 35)*
37. The proposal will not result in changes to the Applicants' teaching and research responsibilities because the proposal does not affect patient care directly. *(Initial CON Application, April 19, 2006, page 37)*
38. There are no distinguishing characteristics of the Applicants' patient/physician mix. *(Initial CON Application, April 19, 2006, page 37)*
39. The Applicants has sufficient technical, financial and managerial competence to provide efficient and adequate services to the public. *(Applicants' Late File, September 6, 2006 and Initial CON Application, April 19, 2006, pages 319)*

Rationale

The Office of Health Care Access (“OHCA”) approaches community and regional need for Certificate of Need (“CON”) proposals on a case by case basis. CON applications do not lend themselves to general applicability due to a variety of factors, which may affect any given proposal; e.g. the characteristics of the population to be served, the nature of an existing service, the specific type of service proposed to be offered, the current utilization of the service and the financial feasibility of the proposal.

Lawrence and Memorial Systems Inc. and Ocean Radiology Associates, P.C. (collectively known as “Applicants”) propose to establish a freestanding imaging center in Waterford, Connecticut to be known as Southeastern Connecticut Imaging Center, LLC (“SCIC”), the proposal also includes acquisition of a multi-detector 16 slice CT scanner. Lawrence and Memorial Hospital (“Hospital”) currently operates two (2) 16 slice CT scanner, one on the Hospital campus and the other at the Pequot Health Center. Both scanners are operational seven days a week and are available for procedures from 13.7 to 24 hours per day.

The Applicants based the need for the proposed freestanding SCIC on existing imaging services being at capacity at the Hospital, physical space limitations at the Hospital campus and at its satellite facilities and on improving relations between the Hospital, its community based physician and patients within its service area. The Applicant reported the existing two (2) CT scanner combined volumes as 19,804, 20,761 and 22,258 for FYs 2003, 2004 and 2005, respectively. The proposed freestanding imaging center will alleviate capacity constraints at the existing CT scanners located at the Hospital and the Pequot Health Center. The proposed imaging center will offer an alternative to the Hospital’s outpatients requiring CT scanning and other diagnostic imaging services within the Hospital’s service area. The Applicant’s proposal for the establishment of a freestanding imaging center and an additional 16 slice CT scanner to be located at 196 Waterford Parkway South, Waterford, Connecticut will improve the access to imaging services in the region.

The total capital cost associated with the proposed project is \$1,958,701. The Applicants will fund the proposal through an equity contribution of \$250,000 each and the remaining will be funded through a conventional loan. The major medical equipment will be funded through lease financing. The projections indicate that although losses will occur due to the initial start up of the SCIC, the proposal will generate operating revenues by the third year. Therefore, OHCA finds that the CON proposal is financially feasible and cost effective.

The Hospital’s Chairman of the Board of Directors stated that although the Hospital will experience initial losses, the relationship of the Hospital to its medical staff and the community will be enhanced with the joint venture. The Chairman also stated that the equipment proposed to be included in the SCIC was chosen to minimize the impact on the Hospital and the Hospital will be able to absorb the losses within three to five years. While the Applicants will experience operating losses for the first two years, the proposal

will provide a long term benefit to the community and the region by enhancing access to imaging services.

Based on the foregoing Findings and Rationale, the Certificate of Need application of Lawrence and Memorial Systems Inc. and Ocean Radiology Associates, P.C. for the establishment of a freestanding imaging center and the acquisition of a CT scanner, at a total capital cost of \$1,958,701, is hereby GRANTED.

Order

Lawrence and Memorial Systems Inc. and Ocean Radiology Associates, P.C. (“Applicants”) are hereby authorized to establish a freestanding imaging center at 196 Waterford Parkway South, Waterford, Connecticut and for the acquisition of a 16 slice CT scanner at capital cost of \$1,958,701 is subject to the following conditions:

1. This authorization shall expire on December 31, 2007. Should the Applicants’ imaging center not be completed by that date, the Applicants must seek further approval from OHCA to complete the project beyond that date.
2. The Applicants will notify OHCA in writing of the commencement of the proposed freestanding imaging center no later than December 31, 2007.
3. The Applicants shall not exceed the approved total capital expenditure of \$1,958,701. In the event that the Applicants learns of potential cost increases or expects that the final project costs will exceed those approved, the Applicant shall file with OHCA a request for approval of the revised CON budget.

All of the foregoing constitutes the final order of the Office of Health Care Access in this matter.

By Order of the
Office of Health Care Access

September 22, 2006

Signed by Cristine A. Vogel
Commissioner

CAV:swl